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Message Text

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C O N F I D E N T I A L STATE 208954

LIMDIS, INFORM CONSULS AS APPROPRIATE

E.O. 11652: GDS

TAGS: RH, PDEV, UK

SUBJECT: RHODESIAN SETTLEMENT PROPOSALS - ANNEX A

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ANNEX A - INDEPENDENCE CONSTITUTION

STATUS OF ZIMBABWE

1. ON INDEPENDENCE SOUTHERN RHODESIA WILL BECOME LEGALLY KNOWN AS ZIMBABWE. THE CONSTITUTION WILL PROVIDE THAT ZIMBABWE WILL BE A SOVEREIGN REPUBLIC WITH THE CONSTITUTION AS ITS SUPREME LAW.

THE HEAD OF STATE

2. (A) THERE WILL BE A PRESIDENT OF THE REPUBLIC. CANDIDATES FOR PRESIDENT WILL HAVE TO BE CITIZENS OF ZIMBABWE AND WILL BE SUBJECT TO THE SAME QUALIFICATIONS AND DISQUALIFICATIONS AS CANDIDATES FOR ELECTION TO THE NATIONAL ASSEMBLY.

(B) ELECTIONS TO THE OFFICE OF PRESIDENT WILL TAKE PLACE AT THE SAME TIME AS GENERAL ELECTIONS TO THE NATIONAL ASSEMBLY AND THE CONSTITUTION WILL PROVIDE THAT THE SUCCESSFUL PRESIDENTIAL CANDIDATE WILL BE THE ONE

WHO HAS BEEN ENDORSED BY AT LEAST HALF OF THE SUCCESSFUL
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CANDIDATES FOR ELECTION AS ELECTED MEMBERS OF THE NATIONAL ASSEMBLY.

(C) A PRESIDENT WILL USUALLY HOLD OFFICE UNTIL A NEW PRESIDENT IS ELECTED (OR HE HIMSELF IS RE-ELECTED) AT THE NEXT GENERAL ELECTION TO THE NATIONAL ASSEMBLY. HOWEVER, THERE WILL BE PROVISION FOR HIS REMOVAL FROM OFFICE FOR PHYSICAL OR MENTAL INCAPACITY OR BECAUSE OF HIS VIOLATION OF THE CONSTITUTION OR OTHER GROSS MISCONDUCT. SUCH REMOVAL WILL TAKE PLACE IF (BUT ONLY IF) A RECOMMENDATION TO THAT EFFECT IS MADE BY A JUDICIAL TRIBUNAL APPOINTED ON THE INITIATIVE OF THE NATIONAL ASSEMBLY: THE CONSTITUTION WILL PRESCRIBE THE PROCEDURE TO BE FOLLOWED.

(D) WHEN THE PRESIDENT'S OFFICE HAS BECOME VACANT IN THE ABOVE WAY OR BECAUSE OF DEATH OR RESIGNATION, THE VICE-PRESIDENT (SEE PARAGRAPH 3(B) BELOW) WILL SUCCEED TO THE OFFICE. THE VICE-PRESIDENT WILL ALSO DISCHARGE THE FUNCTIONS OF THE OFFICE OF PRESIDENT DURING THE LATTER'S ABSENCE FROM THE COUNTRY OR DURING ANY TEMPORARY INCAPACITY.

(E) THE PRESIDENT'S EMOLUMENTS, WHICH WILL BE DETERMINED BY PARLIAMENT, WILL BE CHARGED ON THE CONSOLIDATED FUND AND MAY NOT BE REDUCED DURING HIS TENURE OF OFFICE. THE CONSTITUTION WILL ALSO PROVIDE FOR THE PRESIDENT'S

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PERSONAL STAFF.

(F) THE PRESIDENT WILL BE IMMUNE FROM SUIT OR LEGAL PROCESS DURING HIS TENURE OF OFFICE.

THE EXECUTIVE

3. (A) THE EXECUTIVE POWERS OF THE REPUBLIC WILL BE VESTED IN THE PRESIDENT WHO WILL DISCHARGE THEM, SUBJECT
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TO THE CONSTITUTION, EITHER DIRECTLY OR THROUGH OFFICERS SUBORDINATE TO HIM.

(B) THE PRESIDENT WILL APPOINT A CABINET, CONSISTING OF A VICE-PRESIDENT AND A LIMITED NUMBER OF OTHER MINISTERS, FROM AMONG THE MEMBERS OF THE NATIONAL ASSEMBLY. THE PRESIDENT WILL HIMSELF PRESIDE OVER THE CABINET. THE VICE-PRESIDENT AND OTHER MINISTERS WILL HOLD THEIR OFFICES AT THE PRESIDENT'S PLEASURE.

(C) EACH DEPARTMENT OF GOVERNMENT WILL BE IN THE CHARGE OF A MINISTER (THOUGH THE PRESIDENT MAY HIMSELF TAKE CHARGE OF ONE OR MORE DEPARTMENTS) AND THE CABINET WILL BE COLLECTIVELY RESPONSIBLE TO THE NATIONAL ASSEMBLY FOR THE GOVERNMENT OF THE REPUBLIC.

(D) THE VICE-PRESIDENT WILL BE THE GOVERNMENT LEADER IN THE NATIONAL ASSEMBLY BUT THE PRESIDENT HIMSELF WILL HAVE THE RIGHT TO PARTICIPATE IN ITS PROCEEDINGS THOUGH NOT TO VOTE.

(E) THE PRESIDENT MAY ALSO APPOINT A LIMITED NUMBER OF JUNIOR MINISTERS FROM AMONG THE MEMBERS OF THE NATIONAL ASSEMBLY.

(F) THE CONSTITUTION WILL ESTABLISH THE OFFICES OF THE SECRETARY TO THE CABINET AND PERMANENT SECRETARIES OF DEPARTMENTS. ALL THESE WILL BE CIVIL SERVICE OFFICES BUT THERE WILL BE SPECIAL PROVISIONS (SEE PARAGRAPH 7(E)(V) BELOW) REGULATING THE APPOINTMENT AND TENURE OF THE HOLDERS.

(G) THE OFFICE OF ATTORNEY-GENERAL, WHO WILL BE THE
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PRINCIPAL LEGAL ADVISER OF THE GOVERNMENT OF THE REPUBLIC, WILL BE HELD BY A MINISTER.

(H) THERE WILL BE A SEPARATE OFFICE OF DIRECTOR OF

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PUBLIC PROSECUTIONS WHICH WILL BE AN OFFICE IN THE CIVIL SERVICE. THE DIRECTOR OF PUBLIC PROSECUTIONS WILL HAVE FINAL CONTROL OVER THE INITIATION, CONDUCT AND DISCONTINUANCE OF PROSECUTIONS AND, IN THE EXERCISE OF THAT POWER, WILL NOT BE SUBJECT TO DIRECTION OR CONTROL BY ANY OTHER PERSON OR AUTHORITY. HOWEVER, THE ATTORNEY-GENERAL WILL BE ENTITLED TO BRING TO HIS ATTENTION ANY CONSIDERATIONS OF PUBLIC INTEREST WHICH MAY BE RELEVANT TO ANY PARTICULAR CASE. THE APPOINTMENT, TENURE AND TERMS OF OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS WILL BE SPECIALLY PROVIDED FOR (SEE PARAGRAPH 7(E)(VI) BELOW).

(I) THE PREROGATIVE OF MERCY WILL BE VESTED IN THE PRESIDENT. THERE WILL BE AN ADVISORY COMMITTEE ON PREROGATIVE OF MERCY WHICH THE PRESIDENT WILL BE OBLIGED TO CONSULT IN ALL CAPITAL CASES AND WHICH HE WILL BE ABLE TO CONSULT IN ANY OTHER CASE. BUT HE WILL NOT BE BOUND TO ACT IN ACCORDANCE WITH ITS ADVICE.

(J) THE PRESIDENT WILL BE THE SUPREME COMMANDER OF THE ARMED FORCES OF ZIMBABWE.

PARLIAMENT

4. (A) THE PARLIAMENT OF ZIMBABWE WILL CONSIST OF THE PRESIDENT AND A SINGLE-CHAMBER NATIONAL ASSEMBLY.

(B) THE NATIONAL ASSEMBLY WILL CONSIST OF (100 -- THE PRECISE NUMBER OF SEATS REMAINS TO BE DECIDED IN NEGOTIATION WITH THE PARTIES) ELECTED MEMBERS (BUT SEE SUB-PARAGRAPH (F) BELOW).
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(C) THE ELECTED MEMBERS WILL BE RETURNED, IN ELECTIONS CONDUCTED ON THE "SIMPLE MAJORITY" PRINCIPLE, BY SINGLE-MEMBER CONSTITUENCIES CONTAINING AS NEARLY AS POSSIBLE EQUAL NUMBERS OF REGISTERED VOTERS.

(D) THE DELIMITATION OF CONSTITUENCIES WILL BE CARRIED OUT AT PRESCRIBED INTERVALS BY AN INDEPENDENT ELECTORAL COMMISSION WHICH WILL ALSO SUPERVISE THE REGISTRATION OF VOTERS AND THE CONDUCT OF ELECTIONS.

(E) THE FRANCHISE FOR THE ELECTION OF THE ELECTED MEMBERS WILL BE BASED ON UNIVERSAL ADULT SUFFRAGE, I.E. ALL ZIMBABWE CITIZENS OF THE AGE OF 21 AND UPWARDS WHO HAVE BEEN REGISTERED AS VOTERS AND WHO ARE NOT SPECIFICALLY DISQUALIFIED (E.G. ON GROUNDS OF INSANITY, CRIMINAL CONVICTION, ETC).

(F) THE CONSTITUTION WILL ALSO PROVIDE FOR 20 SPECIALLY

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ELECTED MEMBERS (OR ONE-FIFTH OF THE NUMBER OF ORDINARY ELECTED MEMBERS) WHO WILL BE ELECTED BY THE ELECTED MEMBERS OF THE ASSEMBLY AFTER EACH GENERAL ELECTION. THE PURPOSE OF PROVIDING FOR THE SPECIALLY ELECTED MEMBERS WILL BE TO GIVE ADEQUATE REPRESENTATION TO MINORITY COMMUNITIES. THE EXACT WAY IN WHICH THE CONSTITUTION SHOULD ACHIEVE THIS WILL BE A MATTER FOR FURTHER DISCUSSION. AFTER AN INITIAL PERIOD (THE LIFE OF TWO PARLIAMENTS OR EIGHT YEARS, WHICHEVER IS THE LONGER) PARLIAMENT MAY ABOLISH THE SEATS OF THE SPECIALLY ELECTED MEMBERS OR ALTER THE ARRANGEMENTS WHICH ARE DESIGNED TO SECURE MINORITY REPRESENTATION. SUCH A PROVISION MAY BE MADE BY A SIMPLE ACT OF PARLIAMENT REQUIRING NO SPECIAL MAJORITY AND NO SPECIAL PROCEDURE CONFIDENTIAL

AND IT WILL TAKE EFFECT AT THE NEXT SUCCEEDING DISSOLUTION OF PARLIAMENT. BUT NO SUCH CHANGE MAY BE MADE DURING THE INITIAL PERIOD AND THE RELEVANT PROVISIONS OF THE

CONSTITUTION WILL, DURING THAT PERIOD, BE UNAMENDABLE.

(G) ALL MEMBERS OF THE NATIONAL ASSEMBLY MUST BE CITIZENS OF ZIMBABWE WHO ARE THEMSELVES QUALIFIED AS VOTERS AND ARE NOT SUBJECT TO ONE OF THE SPECIFIED DISQUALIFICATIONS (E.G. INSANITY, CRIMINAL CONVICTION, HOLDING PUBLIC OFFICE, ETC).

(H) SUBJECT ALWAYS TO THE PROVISIONS OF THE CONSTITUTION, PARLIAMENT WILL HAVE FULL POWER TO MAKE LAWS FOR ZIMBABWE.

(I) PARLIAMENT'S POWER TO MAKE LAWS WILL BE EXERCISED BY BILLS PASSED BY THE NATIONAL ASSEMBLY AND ASSENTED TO BY THE PRESIDENT.

(J) WHEN A BILL IS PRESENTED TO THE PRESIDENT FOR HIS ASSENT, HE WILL BE FREE, ACTING IN HIS DISCRETION, TO GIVE OR WITHHOLD HIS ASSENT. BUT IF HE WITHHOLDS HIS ASSENT, THE BILL WILL BE RETURNED TO THE NATIONAL ASSEMBLY WHICH MAY, WITHIN SIX MONTHS, PRESENT IT ONCE MORE FOR THE PRESIDENT'S ASSENT. IF A BILL IS SO RE-PRESENTED, THE PRESIDENT MUST THEN EITHER GIVE HIS ASSENT OR DISSOLVE PARLIAMENT.

(K) THE PRESIDENT MAY SUMMON, PROROGUE OR DISSOLVE PARLIAMENT AT ANY TIME BUT THERE MUST BE A SESSION OF PARLIAMENT AT LEAST ONCE IN EVERY YEAR AND NOT MORE THAN SIX MONTHS MAY ELAPSE BETWEEN SESSIONS. THERE MUST BE A GENERAL ELECTION WITHIN TWO MONTHS OF ANY DISSOLUTION. IF PARLIAMENT HAS NOT BEEN EARLIER DISSOLVED BY THE PRESIDENT, IT WILL STAND DISSOLVED AUTOMATICALLY AT THE END OF FIVE YEARS AFTER A GENERAL ELECTION.

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(L) IF THE NATIONAL ASSEMBLY AT ANY TIME PASSES A VOTE OF NO CONFIDENCE IN THE GOVERNMENT, THE PRESIDENT MUST EITHER DISSOLVE PARLIAMENT OR RESIGN HIS OWN OFFICE.

FUNDAMENTAL RIGHTS

5. (A) THE CONSTITUTION WILL CONTAIN PROVISIONS ("THE BILL OF RIGHTS"), ON THE LINES OF THOSE IN THE CONSTITUTIONS OF OTHER RECENTLY INDEPENDENT COMMONWEALTH COUNTRIES, PROTECTING FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS. THESE WILL GUARANTEE:

(I) THE RIGHT TO LIFE;

(II) THE RIGHT TO LIBERTY OF THE PERSON;

(III) PROTECTION FROM SLAVERY AND FORCED LABOUR;

(IV) PROTECTION FROM INHUMAN TREATMENT;

(V) PROTECTION FROM DEPRIVATION OF PROPERTY: THIS WILL CONFER PROTECTION FROM EXPROPRIATION OF PROPERTY EXCEPT ON SPECIFIED GROUNDS OF PUBLIC INTEREST AND EVEN THEN ONLY ON CONDITION THAT THERE IS PROMPT PAYMENT OF ADEQUATE COMPENSATION (THE AMOUNT OF WHICH, IF NOT AGREED, CAN BE DETERMINED BY AN INDEPENDENT TRIBUNAL) AND THAT THE COMPENSATION MAY BE REMITTED ABROAD WITHIN A REASONABLE PERIOD. IT WILL BE EXPRESSLY PROVIDED THAT, WHERE UNDEVELOPED AGRICULTURAL LAND IS COMPULSORILY ACQUIRED FOR THE PURPOSE OF ENCOURAGING ITS DEVELOPMENT, THE COMPENSATION PAYABLE TO THE FORMER OWNER MAY DISREGARD ANY VALUE WHICH MIGHT ATTACH TO THE LAND BY REASON OF

ITS POTENTIAL DEVELOPMENT AND SHOULD TAKE INTO ACCOUNT ONLY THE ORIGINAL PURCHASE PRICE AND ANY OTHER ACTUAL EXPENDITURE ON IT, E.G. THE COST OF PHYSICAL IMPROVEMENTS;

(VI) THE RIGHT TO PRIVACY OF HOME AND OTHER PROPERTY;

(VII) THE RIGHT TO A FAIR TRIAL IN CIVIL AND CRIMINAL PROCEEDINGS;

(VIII) FREEDOM OF CONSCIENCE;

(IX) FREEDOM OF EXPRESSION;

(X) THE RIGHT OF INDIVIDUALS, GROUPS OR COMMUNITIES TO

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ESTABLISH AND MAINTAIN SCHOOLS AT THEIR OWN EXPENSE, PROVIDED THAT SUCH SCHOOLS ARE NOT OPERATED ON A DISCRIMINATORY BASIS;

(XI) FREEDOM OF ASSOCIATION (ESPECIALLY TO FORM AND OPERATE TRADE UNIONS);

(XII) FREEDOM OF MOVEMENT (INCLUDING THE FREEDOM TO LEAVE ZIMBABWE AND THE IMMUNITY OF ZIMBABWE CITIZENS FROM EXPULSION FROM ZIMBABWE);

(XIII) FREEDOM FROM DISCRIMINATION.

(B) THESE FUNDAMENTAL RIGHTS WILL BE JUSTICICABLE, I.E. ANY PERSON WHO ASSERTS THAT THEY HAVE BEEN, ARE BEING OR ARE LIKELY TO BE INFRINGED IN HIS CASE WILL BE ABLE TO APPLY TO THE HIGH COURT FOR THAT QUESTION TO BE DETERMINED AND, WHEN APPROPRIATE, FOR REDRESS.

(C) IT FOLLOWS FROM THE FACT THAT THE CONSTITUTION IS TO BE THE SUPREME LAW OF ZIMBABWE (SEE PARAGRAPH 1 ABOVE) THAT ANY LAW WHICH CONFLICTS WITH THE BILL OF CONFIDENTIAL

RIGHTS WILL, TO THE EXTENT OF THAT CONFLICT, BE VOID AND THAT ANY EXECUTIVE ACTION THAT SO CONFLICTS WILL, TO THE SAME EXTENT, BE UNLAWFUL. THIS APPLIES IN PARTICULAR TO LAWS OR PRACTICES THAT ARE DISCRIMINATORY. MOST OF THE DISCRIMINATORY LAWS AND PRACTICES NOW IN OPERATION WILL IN FACT HAVE BEEN TERMINATED BY THE TRANSITIONAL ADMINISTRATION BEFORE INDEPENDENCE (SEE PARAGRAPH 9(A) OF ANNEX B) BUT THERE MAY BE A FEW WHICH ARE STILL IN EXISTENCE WHEN THE INDEPENDENT GOVERNMENT OF ZIMBABWE TAKES OVER. IT WILL PRESUMABLY BE THE INTENTION OF THAT GOVERNMENT TO TERMINATE THEM AS SOON AS POSSIBLE THEREAFTER BUT IN SOME CASES IT MAY STILL NOT BE POSSIBLE TO DO SO AT ONCE SINCE THE FIRST GOVERNMENT OF ZIMBABWE MAY NEED A LITTLE FURTHER TIME IN WHICH TO WORK OUT THE NEW LAWS OR NEW ARRANGEMENTS TO TAKE THEIR PLACE. TO THIS LIMITED EXTENT, THEREFORE, THE CONSTITUTION WILL PERMIT THE GOVERNMENT OF ZIMBABWE TO CONTINUE THESE EXISTING LAWS AND PRACTICES, NOTWITHSTANDING THE BILL OF RIGHTS, FOR SUCH TIME AS IT TAKES TO REPLACE THEM BUT IN ANY CASE FOR NO LONGER THAN TWO YEARS FROM THE DATE OF INDEPENDENCE. NO NEW DISCRIMINATION WILL, OF COURSE, BE LAWFUL AND THE CONSTITUTION WILL EXPRESSLY PROVIDE THAT, IF ANY EXISTING LAW OR PRACTICE IS AMENDED OR REPLACED DURING THAT PERIOD, NO GREATER DEGREE OF DISCRIMINATION MAY BE INTRODUCED THAN WAS LAWFUL BEFORE THAT AMENDMENT OR REPLACEMENT.

(D) THE CONSTITUTION WILL PERMIT CERTAIN OF THE PRO-

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VISIONS OF THE BILL OF RIGHTS TO BE DEROGATED FROM DURING PERIODS OF PUBLIC EMERGENCY. FOR THIS PURPOSE, A PUBLIC EMERGENCY WILL BE DEEMED TO EXIST WHEN IT HAS BEEN PROCLAIMED BY THE PRESIDENT BUT ANY SUCH PROCLAMATION MUST EITHER HAVE RECEIVED PRIOR APPROVAL BY A CONFIDENTIAL

RESOLUTION SUPPORTED BY TWO-THIRDS OF ALL THE MEMBERS OF THE NATIONAL ASSEMBLY OR MUST BE RATIFIED BY SUCH A RESOLUTION WITHIN A WEEK AFTER IT WAS MADE. THE PROCLAMATION WILL LAPSE WITHIN A FURTHER THREE MONTHS UNLESS THE NATIONAL ASSEMBLY'S APPROVAL HAS IN THE MEANTIME BEEN RENEWED BY A SIMILAR MAJORITY.

THE JUDICATURE

6. (A) THE CONSTITUTION WILL ESTABLISH A HIGH COURT, WHICH WILL BE DIVIDED INTO AN APPELLATE DIVISION AND A GENERAL DIVISION, AND THERE WILL ALSO BE SUCH SUBORDINATE

COURTS AS PARLIAMENT MAY FROM TIME TO TIME PROVIDE FOR.

(B) THE JUDGES OF THE HIGH COURT WILL BE A CHIEF JUSTICE AND SUCH OTHER JUDGES (EITHER JUSTICES OF APPEAL OR PUISNE JUDGES) AS PARLIAMENT MAY PRESCRIBE.

(C) THE CHIEF JUSTICE WILL BE APPOINTED BY THE PRESIDENT, ACTING IN HIS DISCRETION.

(D) THE OTHER JUDGES OF THE HIGH COURT WILL BE APPOINTED BY THE PRESIDENT IN ACCORDANCE WITH THE ADVICE OF THE JUDICIAL SERVICE COMMISSION (SEE SUB-PARAGRAPH (H) BELOW).

(E) THE CHIEF JUSTICE AND OTHER JUDGES OF THE HIGH COURT WILL NOT BE REMOVABLE FROM OFFICE (UNTIL RETIRING AGE) EXCEPT ON GROUNDS OF PHYSICAL OR MENTAL INCAPACITY OR MISCONDUCT, AS DETERMINED BY A JUDICIAL TRIBUNAL IN ACCORDANCE WITH A PROCEDURE WHICH THE CONSTITUTION WILL PRESCRIBE.

(F) THE TERMS OF SERVICE OF THE JUDGES OF THE HIGH COURT (INCLUDING THEIR EMOLUMENTS, WHICH WILL BE CHARGED CONFIDENTIAL

ON THE CONSOLIDATED FUND) MAY NOT BE ALTERED TO THEIR DISADVANTAGE DURING THEIR TENURE OF OFFICE.

(G) THE POWER TO APPOINT, EXERCISE DISCIPLINARY CONTROL OVER, AND REMOVE FROM OFFICE THE JUDGES OF THE SUBORDINATE

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COURTS AND CERTAIN OTHER OFFICERS CONNECTED WITH THE HIGH COURT (E.G. REGISTRAR) WILL VEST IN THE JUDICIAL SERVICE COMMISSION.

(H) THE CONSTITUTION WILL ESTABLISH AN INDEPENDENT JUDICIAL SERVICE COMMISSION, CONSISTING OF THE CHIEF JUSTICE, ANOTHER JUDGE OF THE HIGH COURT DESIGNATED BY THE CHIEF JUSTICE, AND A MEMBER OF THE PUBLIC SERVICE COMMISSION (SEE PARAGRAPH 7 BELOW) DESIGNATED BY THE CHAIRMAN OF THAT COMMISSION.

THE PUBLIC SERVICE

7. (A) THE CONSTITUTION WILL ESTABLISH AN INDEPENDENT PUBLIC SERVICE COMMISSION CONSISTING OF A CHAIRMAN AND FOUR OTHER MEMBERS.

(B) THE MEMBERS OF THE PUBLIC SERVICE COMMISSION, WHO MUST NOT BE (OR HAVE RECENTLY BEEN) PUBLIC OFFICERS OR

MEMBERS OF THE NATIONAL ASSEMBLY OR OTHERWISE ACTIVELY ENGAGED IN POLITICS, WILL BE APPOINTED BY THE PRESIDENT FOR A FIXED TERM AND WILL NOT BE REMOVABLE DURING THAT TERM EXCEPT FOR PHYSICAL OR MENTAL INCAPACITY OR MISCONDUCT, AS DETERMINED BY A JUDICIAL TRIBUNAL IN ACCORDANCE WITH A PROCEDURE TO BE PRESCRIBED BY THE CONSTITUTION.

(C) THE TERMS OF SERVICE OF THE MEMBERS OF THE COMMISSION (INCLUDING THEIR EMOLUMENTS, WHICH WILL BE CHARGED ON CONSOLIDATED FUND) MAY NOT BE ALTERED TO THEIR DISADVANTAGE DURING THEIR TENURE OF OFFICE.

(D) SUBJECT TO CERTAIN SPECIFIED EXCEPTIONS, THE POWER TO APPOINT PERSONS TO HOLD OR ACT IN PUBLIC OFFICES, TO EXERCISE DISCIPLINARY CONTROL OVER PERSONS SO APPOINTED AND TO REMOVE THEM FROM OFFICE WILL VEST IN THE PUBLIC SERVICE COMMISSION. (THE TERM "PUBLIC OFFICES" INCLUDES ALL CIVIL SERVICE OFFICES AND OFFICES IN THE POLICE FORCE BUT NOT OFFICES IN THE ARMED FORCES.)

(E) THE SPECIFIED EXCEPTIONS ARE AS FOLLOWS:

(I) OFFICES ON THE PRESIDENT'S PERSONAL STAFF: THESE WILL BE WITHIN THE PRESIDENT'S PERSONAL CONTROL, THOUGH HE MAY ARRANGE WITH THE PUBLIC SERVICE COMMISSION FOR REGULAR PUBLIC OFFICERS TO BE SECONDED TO HIS STAFF;

(II) OFFICES OF THE JUDGES OF THE HIGH COURT AND OTHER OFFICES WITHIN THE JURISDICTION OF THE JUDICIAL SERVICE

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COMMISSION;

(III) OFFICERS ON THE STAFF OF THE NATIONAL ASSEMBLY:
BEFORE EXERCISING THE RELEVANT POWERS IN THE CASE OF
THESE OFFICERS, THE PUBLIC SERVICE COMMISSION WILL NEED
TO OBTAIN THE CONCURRENCE OF THE SPEAKER OF THE ASSEMBLY;

(IV) OFFICES IN THE POLICE FORCE: THE RELEVANT POWERS
IN THE CASE OF THE COMMISSIONER OF POLICE HIMSELF WILL
BE VESTED IN THE PRESIDENT, ACTING AFTER CONSULTATION
WITH THE PUBLIC SERVICE COMMISSION; IN THE CASE OF OTHER
MEMBERS OF THE POLICE FORCE THEY WILL BE VESTED IN THE
COMMISSIONER OF POLICE OR IN SUCH OFFICERS SUBORDINATE
TO HIM AS MAY BE PROVIDED FOR BY ANY LAW IN THAT BEHALF
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OR, SUBJECT TO ANY SUCH LAW, AS HE MAY DELEGATE THEM TO;

(V) THE OFFICES OF SECRETARY TO THE CABINET, PERMANENT

SECRETARIES AND ZIMBABWE AMBASSADORS ABROAD: THE RELEVANT
POWERS WILL BE VESTED IN THE PRESIDENT, ACTING AFTER
CONSULTATION WITH THE PUBLIC SERVICE COMMISSION;

(VI) THE OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS:
THE POWER TO APPOINT A PERSON TO THIS OFFICE WILL BE
VESTED IN THE PRESIDENT, ACTING AFTER CONSULTATION WITH
THE PUBLIC SERVICE COMMISSION AND THE JUDICIAL SERVICE
COMMISSION; BUT A DIRECTOR OF PUBLIC PROSECUTIONS WILL
NOT BE REMOVABLE FROM OFFICE (UNTIL RETIRING AGE) EXCEPT
FOR PHYSICAL OR MENTAL INCAPACITY OR MISCONDUCT, AS
DETERMINED BY A JUDICIAL TRIBUNAL IN ACCORDANCE WITH A
PROCEDURE TO BE PRESCRIBED BY THE CONSTITUTION; AND HIS
TERMS OF SERVICE (INCLUDING HIS EMOLUMENTS, WHICH WILL
BE CHARGED ON THE CONSOLIDATED FUND) MAY NOT BE ALTERED
TO HIS DISADVANTAGE DURING HIS TENURE OF OFFICE;

(VII) THE OFFICE OF AUDITOR-GENERAL: THE POWER TO
APPOINT A PERSON TO THIS OFFICE WILL BE VESTED IN THE
PRESIDENT, ACTING AFTER CONSULTATION WITH THE PUBLIC
SERVICE COMMISSION: ONCE APPOINTED, THE AUDITOR-GENERAL
WILL BE PROTECTED IN THE SAME WAY AS THE DIRECTOR OF
PUBLIC PROSECUTIONS.

(F) THE CONSTITUTION WILL PROTECT THE PENSIONS OF ALL
PUBLIC OFFICERS (INCLUDING PAST OFFICERS) BY:

(I) CHARGING THEM ON THE CONSOLIDATED FUND;

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(II) A PROVISION WHICH WILL ENSURE THAT THE PENSIONS OF OFFICERS WHO ARE COMPULSORILY RETIRED TO FACILITATE THE RECONSTRUCTION OF THE PUBLIC SERVICE CAN BE FREELY REMITTED ABROAD; AND

(III) PREVENTING THE LAW REGULATING THE PAYMENT OF A PUBLIC OFFICER'S PENSION FROM BEING ALTERED TO HIS DISADVANTAGE AFTER THE COMMENCEMENT OF HIS SERVICE.

FINANCE

8. (A) THE CONSTITUTION WILL ESTABLISH A CONSOLIDATED FUND INTO WHICH ALL PUBLIC REVENUES (NOT OTHERWISE PAYABLE BY LAW INTO SOME OTHER PUBLIC FUND) WILL BE PAID.

(B) THE CONSTITUTION WILL REQUIRE ANNUAL ESTIMATES OF EXPENDITURE TO BE LAID BY THE GOVERNMENT BEFORE THE NATIONAL ASSEMBLY FOR ITS APPROVAL AND WILL PROVIDE FOR

THE PASSAGE BY PARLIAMENT OF APPROPRIATION ACTS TO AUTHORISE SUCH EXPENDITURE. NO MONIES WILL BE ALLOWED TO BE WITHDRAWN FROM THE CONSOLIDATED FUND OR ANY OTHER PUBLIC FUND EXCEPT UNDER THE AUTHORITY OF SUCH AN APPROPRIATION OR WHEN THEY ARE CHARGED BY THE CONSTITUTION OR SOME OTHER LAW ON THAT FUND.

(C) THE CONSTITUTION WILL PROVIDE FOR A CONTINGENCIES FUND AND FOR OTHER PROCEDURES FOR AUTHORISING UNFORESEEN EXPENDITURE.

(D) THE CONSTITUTION WILL ESTABLISH THE OFFICE OF AUDITOR-GENERAL WHOSE DUTY IT WILL BE TO MONITOR THE ABOVE REQUIREMENTS, TO AUDIT THE ACCOUNTS OF GOVERNMENT AND OTHER PUBLIC AUTHORITIES AND TO REPORT ON THESE MATTERS DIRECT TO THE NATIONAL ASSEMBLY.
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CITIZENSHIP

9. (A) THE CONSTITUTION WILL ESTABLISH ZIMBABWE CITIZENSHIP AND WILL CONTAIN THE BASIC PROVISIONS RELATING TO IT. PARLIAMENT WILL BE AUTHORISED TO MAKE SUPPLEMENTARY LEGISLATION REGULATING THE ACQUISITION AND LOSS OF ZIMBABWE CITIZENSHIP WITHIN THE LIMITS PERMITTED BY THE CONSTITUTION.

(B) ALL PERSONS WHO ARE CITIZENS OF SOUTHERN RHODESIA (WHETHER BY BIRTH, DESCENT, ADOPTION, NATURALISATION OR REGISTRATION) IMMEDIATELY BEFORE INDEPENDENCE WILL BECOME ZIMBABWE CITIZENS AUTOMATICALLY ON INDEPENDENCE.

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(C) ALL PERSONS WHO HAVE THE RIGHT IMMEDIATELY BEFORE INDEPENDENCE, TO APPLY TO BECOME CITIZENS OF SOUTHERN RHODESIA WILL HAVE A SIMILAR RIGHT, WITHIN A SPECIFIED PERIOD AFTER INDEPENDENCE, TO APPLY TO BECOME ZIMBABWE CITIZENS.

(D) ALL PERSONS BORN IN ZIMBABWE AFTER INDEPENDENCE WILL BE ZIMBABWE CITIZENS BY BIRTH.

(E) ANY PERSON BORN OUTSIDE ZIMBABWE AFTER INDEPENDENCE WHOSE FATHER IS A CITIZEN OF ZIMBABWE BY VIRTUE OF HIS BIRTH IN ZIMBABWE (OR IN SOUTHERN RHODESIA) WILL BE A ZIMBABWE CITIZEN BY DESCENT.

(F) A WOMAN WHO IS MARRIED TO A CITIZEN OF ZIMBABWE AFTER INDEPENDENCE WILL HAVE THE RIGHT TO BECOME A CITIZEN OF ZIMBABWE HERSELF.

(G) WHETHER THE CONSTITUTION SHOULD PERMIT DUAL CITIZENSHIP (WITH OR WITHOUT RESTRICTIONS) IS A MATTER FOR FURTHER DISCUSSION. IF IT IS NOT PERMITTED, A CITIZEN OF ZIMBABWE WHO ACQUIRES THE CITIZENSHIP OF ANOTHER COUNTRY BY VOLUNTARY ACT (OTHER THAN MARRIAGE) WILL AUTOMATICALLY LOSE HIS ZIMBABWE CITIZENSHIP, WHILE A CITIZEN OF ZIMBABWE WHO INVOLUNTARILY ACQUIRES THE CITIZENSHIP OF ANOTHER COUNTRY (E.G. BY BIRTH) MUST EITHER RENOUNCE THAT OTHER CITIZENSHIP (OR, IF THAT IS NOT POSSIBLE, MAKE A PRESCRIBED DECLARATION) WITHIN, SAY, FIVE YEARS OF THE RELEVANT EVENT (OR OF ATTAINING THE AGE OF 21 YEARS) OR LOSE HIS CITIZENSHIP OF ZIMBABWE. SIMILARLY, A PERSON WHO, AT INDEPENDENCE, AUTOMATICALLY BECOMES A CITIZEN OF ZIMBABWE AND IS ALSO A CITIZEN OF ANOTHER COUNTRY WILL HAVE TO RENOUNCE HIS OTHER CITIZENSHIP, AND A PERSON APPLYING FOR ZIMBABWE CITIZENSHIP WILL HAVE TO RENOUNCE HIS EXISTING CITIZENSHIP (OR MAKE THE PRESCRIBED DECLARATION).

(H) PARLIAMENT WILL BE EMPOWERED TO PROVIDE FOR ADDITIONAL GROUNDS UPON WHICH PERSONS MAY ACQUIRE ZIMBABWE CITIZENSHIP OR LOSE THAT CITIZENSHIP (BUT MAY NOT TAKE AWAY THE CITIZENSHIP OF PERSONS WHO HAVE IT BY BIRTH OR DESCENT OR WHO HAVE AUTOMATICALLY ACQUIRED IT AT INDEPENDENCE).

AMENDMENT OF CONSTITUTION

10. (A) ALL PROVISIONS OF THE CONSTITUTION WILL BE AMENDABLE BY ACT OF THE ZIMBABWE PARLIAMENT. BUT THE CONSTITUTION WILL PRESCRIBE THE PROCEDURE TO BE FOLLOWED

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FOR EFFECTING SUCH AN AMENDMENT. THESE WILL VARY ACCORDING TO THE EXTENT TO WHICH THE PROVISIONS TO BE AMENDED GO TO THE BASIC STRUCTURE OF THE CONSTITUTION OR ARE ESPECIALLY SENSITIVE.

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(B) SOME PROVISIONS, E.G. THOSE PRESCRIBING THE MAXIMUM NUMBER OF MINISTERS, WILL BE AMENDABLE BY SIMPLE ACT OF PARLIAMENT: NO SPECIAL MAJORITY AND NO SPECIAL PROCEDURE WILL BE REQUIRED.

(C) MOST PROVISIONS WILL BE AMENDABLE BY AN ACT OF PARLIAMENT WHICH HAS BEEN PASSED AT ITS FINAL READING IN THE NATIONAL ASSEMBLY BY A MAJORITY OF TWO-THIRDS OF ALL THE MEMBERS OF THE ASSEMBLY. BUT A BILL FOR AN ACT TO AMEND SUCH A PROVISION MUST ALSO HAVE BEEN PUBLISHED IN THE OFFICIAL GAZETTE AT LEAST THIRTY DAYS BEFORE FIRST READING AND A PERIOD OF AT LEAST THREE MONTHS MUST

ELAPSE BETWEEN FIRST READING AND FINAL READING.

(D) A LIMITED NUMBER OF PROVISIONS (E.G. THOSE DEALING WITH CITIZENSHIP, WITH FUNDAMENTAL RIGHTS AND WITH THE JUDICATURE AND, OF COURSE, THOSE PRESCRIBING THE PROCEDURE FOR CONSTITUTIONAL AMENDMENTS) WILL BE AMENDABLE ONLY BY A BILL WHICH HAS SATISFIED THE REQUIREMENTS IN (C) ABOVE IN TWO SUCCESSIVE SESSIONS IN BETWEEN WHICH PARLIAMENT HAS BEEN DISSOLVED AND A GENERAL ELECTION HAS TAKEN PLACE.

(E) THERE WILL BE A VERY FEW PROVISIONS (I.E. THOSE PROVIDING FOR SPECIALLY ELECTED MEMBERS IN THE NATIONAL ASSEMBLY AND THOSE PROVIDING FOR THE PROCEDURE UNDER (D) ABOVE) WHICH WILL NOT BE AMENDABLE AT ALL FOR A LIMITED PERIOD AFTER INDEPENDENCE (THE LIFE OF TWO PARLIAMENTS OR EIGHT YEARS, WHICHEVER IS THE LONGER). CHRISTOPHER

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Message Attributes

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Disposition Approved on Date:
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Disposition Date: 22 May 2009
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